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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,969	12/08/2000	Genevieve Loussouarn	2365-25	1751

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EXAMINER

BHATNAGAR, ANAND P

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/731,969

Applicant(s)

LOUSSOUARN ET AL.

Examiner

Anand Bhatnagar

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,6 and 10-17 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Arguments

1. Applicant's arguments, see arguments pages 2-20, filed 02/08/05, with respect to the rejection(s) of claim(s) 1-17 under 35 USC 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Courtois et al. (M. Courtois, G. Loussouran, S. Hourseau, and J.F. Grollier; British Journal of Dermatology; "Periodicity in the growth and shedding of hair," Volume 134; pages 47-54).

Applicant on the top of page 2 of his arguments states in his response, filed on 02/08/05, that the Rule 131 Declaration filed on 06/16/04 was to demonstrate "reduction to practice" applicant's instant invention prior to the effective date of the prior art of Kreindel et al. (U.S. patent 6,162,212). As the examiner stated in the Final Rejection that the Rule 131 Declaration does not state if "reduction to practice" nor "conception" is being demonstrated. To make this declaration proper one of these two needs to be in the declaration. Since neither of these is in the declaration then this Rule 131 declaration submitted is considered to be defective.

Examiner refers to the rejection below.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Courtois et al. (M.Courtois, G. Loussouran, S. Hourseau, and J.F. Grollier; British Journal of Dermatology; "Periodicity in the growth and shedding of hair," Volume 134; pages 47-54; will be further referred to as Courtis).

Regarding claims 1 and 12: Courtis discloses a system for the simulation and predictive analysis of the evolution of a region of the scalp of a subject over time (page 47 last two lines of right column and page 51 second full paragraph left column, wherein an auto-projective modeling is being performed), characterized in that it comprises a means of observation of the said hair region able to output digital observation data, a first digital data processing means capable of classifying elementary parts of the said region on the basis of the observation data (page 47-48 the section titled "Method", wherein the data obtained of the hair is used to classify the hairs as being in the anagen or telogen stages), a second digital data processing means capable simulating the evolution of the said hair region as a function of the data emanating from the first digital data processing means (page 50 under the section "Results," the last paragraph in right column wherein the evolution of the telogen percentages is simulated in a plotted graph) a means of displaying the data emanating from the second digital data processing means, the data output by the first processing means comprising at least one classification according to the duration of the phases of the hair cycle

(page 47 under the section "Method" wherein the duration of the hair cycles are analyzed and page 50 wherein the graphs B, D, and K show the percentage of the hairs in the telogen stage vs the time/duration).

Courtois et al. discloses to analyze the hair growth cycle in the scalp region of individuals. Courtois et al. first obtains images of the regions of the scalp and determines which hairs are either in anagen, telogen, or disappeared/absent hairs. Courtois et al. further discloses that this process is performed by a Vax computer (page 50 under the sections "Statistics" and "Modelling of the series of telogen percentages"). Courtis et al. does not disclose to have a first processing outputting a digital observation data nor teaches to have more than one processing units. In order for the Vax computer to process the data from the obtained images/photos it must be entered and converted to a digital format. This digital conversion of analog data is well known to one skilled in the art by the incorporation of an A/D converter. It would have been obvious to one skilled in the art to have a processor wherein the data obtained is converted into digital form in order for a computer to be able to process the data which would make the system more efficient. Furthermore, it is a matter of configuration if two or more processors are incorporated together or only a single processor carrying out the steps described.

Regarding claim 2: System characterized in that the observation data, output by the first processing means, comprise the surface density of hairs (Tables 1 and 2 wherein the hair densities are calculated) , the proportion A of

hairs in the anagen phase, the proportion T of hairs in the telogen phase (Tables 1 and 2 wherein the percentage of hairs in the telogen stage are determined), the proportion of disappeared hairs (page 48 under the section "Volunteers" second paragraph wherein the absent/disappeared hairs are determined), the proportion Dd of hairs in the dead phase (page 48 under the section of "Trichanalectia," the number of hairs that are lost is determined, i.e. the lost hairs are read as dead hairs) and the individual rate of growth of the hairs (page 48 lines 1-5 in the left column and under the section "Volunteers" second paragraph wherein each hair is analyzed and classified as anagen, telogen, or absent. In order to be classified as one of these the growth of the hairs is analyzed and used to classify the hairs as one of these). Courtois et al. discloses to obtain the counts of the hairs in their different growth cycles and also the percentage of hairs in the telogen stage. Courtois et al. does not teach to get the different proportions/percentages of the hairs in the other cycles. It is well known to one skilled in the art to calculate proportions/percentages of a variable especially if all the variables are counted.

Regarding claim 6: System characterized in that the second processing means comprises a means for allocating a given duration of phase to a hair (page 50 graphs B, D, and K).

Regarding claim 10: System characterized that it comprises a means for performing a third processing for simulating the evolution of the entire head of hair of the subject on the basis of the data emanating from the second

processing means (page 50 graphs B, D, and K wherein the evolution of hair growth is simulated).

Regarding claim 11: System characterized in that it comprises a means for associating data relating to the evolution of other sites with the data emanating from the third processing means. Courtois et al. discloses to observe a portion of the scalp on individuals and observe the same region over time for the changes of the hair growth. Courtois et al., does not teach to perform this on other sites. It would have been obvious to one skilled in the art to apply this technique to other places of the scalp or other places on the skin in different locations of the body to observe the hair growth cycles in these regions.

Regarding claim 13: Process in which at least two observations are performed separated by a first given duration, each observation being preceded by a step of shaving the said hair region, the shaving step being separated from the corresponding observation by a second given duration, in such a way that an evolution of the said hair region can be noted, the observation data comprising the surface density of hairs, the proportion A of hairs in the anagen phase, the proportion T of hairs in the telogen phase, and the individual rate of growth of the hairs. It is rejected for the same reasons as in claims 1 and 2 combined above and for the following limitations: of two observations and shaving the region (page 47 last two lines in right column wherein the area is shaved for analysis). It would have been obvious to one skilled in the art to make one, two, etc. observations.

Regarding claim 14: Process in which on the basis of the observation data, the hair coverage produced per unit time and area is calculated (Tables 1 and 2 wherein the density is calculated).

Regarding claim 15: Process in which the second digital processing takes into account the ratios of the durations of the anagen and telogen phases. See claim 2.

Regarding claim 16: Process in which a third digital processing is performed so as to perform a simulation of the temporal evolution of the entire head of hair of the subject on the basis of the data emanating from the second digital processing and the data emanating from the third digital processing are displayed by flat projection. See claim 10.

Regarding claim 17: Process according to Claim 16, in which, data from simulating the evolution of the face are associated with the data emanating from the third digital processing and the associated data are displayed. See claim 10.

Allowable Subject Matter

3. Claims 3-5 and 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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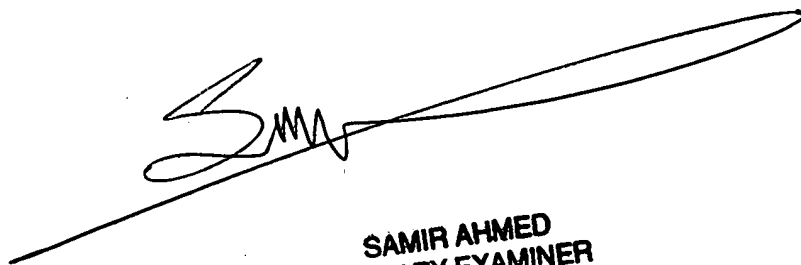
Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Rassman (U.S. patent 5,331,472) for counting the hairs in a defined area of the skin.

Contact Information

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand Bhatnagar whose telephone number is (571) 272-7416, whose supervisor is Amelia Au whose number is (571) 272-7414, group fax is 703-872-9306, and Tech center 2600 customer service office number is 703-306-0377.



**SAMIR AHMED
PRIMARY EXAMINER**



Anand Bhatnagar

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May 08, 2005